UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CLARENCE BOGAN, III,

Plaintiff**,**

vs.

TIMOTHY BRUNSMAN, et al.,

Defendants

Case No. 1:11-cv-259

Barrett, J.
Bowman, M.J.

MEMORANDUM OPINION

Plaintiff, an inmate at the Lebanon Correctional Institution (LeCI) in Lebanon, Ohio, brings this action against LeCI Warden Timothy Brunsman and the Director of the Ohio Department of Rehabilitation and Correction Gary C. Mohr. Plaintiff's pro se complaint alleges numerous violations of his rights as a result of his incarceration at LeCI. This matter is now before the Court on Plaintiff's motion for "Unannounced Search of the Lebanon Correctional Institution and the Ohio Department of rehabilitation and Corrections for the Specific purpose of Confiscating Specific Records." (Doc. 13). Also before the Court is Plaintiff's motion to appoint counsel. (Doc.14). Upon careful review, the Court finds that Plaintiff's motions are not well-taken, and are herein **DENIED**.

Plaintiff's motion to search asks the Court to "Order the U.S. Dept. of Justice, FBI, U.S. Marshall to enter Lebanon Correctional Institution and seize all of Plaintiff's records and all of the records of Warden Brunsman, Deputy Warden Harris [and] David Hudson, Lt. Bendell. . . ." (Doc. 13). Plaintiff also asks for a member of the U.S. Department of Justice or FBI to interview him for the purpose of determining what should be seized. Upon close inspection, Plaintiff's motion is liberally construed as request for discovery in order to obtain certain documents relevant to this action. Although Plaintiff has been granted *in forma pauperis* status (*See* Doc. 11), there is no constitutional or statutory requirement that the government or Defendant pay for an indigent prisoner's discovery efforts. *Smith v. Yarrow*, 78 Fed. Appx. 529, 544 (6th Cir. 2003).

Furthermore, the Federal Rules of Civil Procedure do not require or contemplate that routine motions seeking discovery be filed with the court. Rather, civil litigants should use the relevant rules to exchange discovery and to obtain requested discovery directly from opposing counsel without the necessity of any motion. Only when those efforts fail, and a party certifies precisely what efforts he or she made to obtain the requested discovery, may a motion to compel discovery be filed with the court. *See generally*, Rule 37, Fed. R. Civ. P. In this case, there is no indication that Plaintiff has submitted a discovery request for these documents directly to the Defendants.[1] Accordingly, Plaintiff's motion (Doc. 13) is premature and is **DENIED**.

Next, Plaintiff seeks the appointment of counsel on grounds that he is indigent and incarcerated. (Doc. 14). Having reviewed Plaintiff's complaint, I find Plaintiff's claims to be straightforward, and no more complex than thousands of similar claims filed by *pro se* prisoners each year in the federal courts. Plaintiff's motion for the appointment of counsel will therefore be denied based upon the general principle that civil litigants have no constitutional right to the appointment of counsel at government expense. *See Anderson v. Sheppard*, 856 F.2d 741 (6th Cir. 1988). The instant case simply does not present the

[1] Notably, at the time the instant motions were filed - November 10, 2011 - Defendants had not yet been properly served. On January 30, 2012, the United States Marshall was Ordered to serve Defendants with a copy of the summons and complaint. (Doc. 19).

type of "exceptional circumstances" that would justify the rare appointment of free counsel for a *pro se* civil litigant. *Lavado v. Keohane*, 992 F.2d 601, 605-606 (6th Cir. 1993). Plaintiff's motion to appoint counsel (Doc. 14) is therefore **DENIED.**

IT IS SO ORDERED.

s/Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge